

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : Toshihiko Munetsugu et al.  
Appln. No. : 09/467,231  
Filed : December 20, 1999  
Title : DATA PROCESSING DEVICE AND METHOD FOR SELECTING  
MEDIA SEGMENTS ON THE BASIS OF A SCORE

Conf. No. : 2093  
TC/A.U. : 2176  
Examiner : Maikhahanh Nguyen

Customer No. : 00116  
Docket No. : NGB-32161

Commissioner for Patents  
Alexandria, VA 22313-1450

**SECOND SUPPLEMENT to APPELLANT'S BRIEF**

Sir:

This paper is provided to supplement the brief provided in an ex parte appeal from the decision of the Examiner in the Final Rejection dated May 15, 2007 in the above-identified application, rejecting all claims in the application. This supplemental paper is provided in response to the Notice of Non-Compliant Appeal Brief mailed on May 7, 2008, and is meant to supplement the brief filed on December 17, 2007.

**Remarks** are provided on page 2; and

A supplemental **Summary of the Claimed Subject Matter** is attached hereto to replace that section of the brief already filed in this case.

## REMARKS

Patent Appeals Specialist Doug Hutton sent a Notice of Non-Compliant Appeal Brief on May 7, 2008, which argues that the Summary of the Claimed Subject Matter is not compliant, arguing that “Appellant must amend the Summary of Claimed Subject Matter section to recite in exact language (i.e., quote) every limitation of the independent claims and identify each element of the limitations to those portions of the disclosure that describe it”, further stating that “in order to comply with 37 C.F.R. 41.37(c)(1)(v), the ‘Summary of Claimed Subject Matter’ item in the Appeal Brief must: 1) provide details that make clear the scope of the limitations recited in the appealed independent claims; and 2) in the explanation, refer to the Specification by page and line number.” The previous specialist has sent a requirement that “said summary “must identify and map all independent claims on appeal...to [the] specification by page and line number of paragraph number and to the drawings, if any.”

Specialist Hutton gives various definitions of the term “explanation” without any discussion of why this definition is given, or where the summary fails to meet the requirements of the rule (it is noted that an “exact quote” would not comply with the definition of “explanation” given by the specialist, as a “quote” clearly cannot explain itself; an “explanation” clearly requires something other than a quote).

Although a supplemental summary is provided with this response that complies with the specialist’s requested format, Applicant notes that the requested format is not based on the plain language of the rules, but is merely one manner in complying with the rules. The rules do not require a *mapping* of the features of all of the claims to the specification is provided.

The requirements for the summary section of an appeal brief are laid out in 37 CFR 41.37(c)(1)(v) as follows:

*Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

(underlining and bold emphasis added). The rule only requires that a “concise explanation” of the “subject matter defined in each of the independent claims” be provided, and it is clear from reading this rule that the requirement that reference be made to the “specification by page and line number, and to the drawing if any” refers to the “concise explanation”. The definitions of “explanation” provided by the specialist do not comport with quoting the “exact language” of the claims. Applicant notes that the rule specifically says that it is the summary which has the “concise explanation”, and thus exactly quoting claim language can hardly be used to “explain” the claim language. One does not define a word by repeating the word, just as one does not properly “explain” claim language by merely repeating it verbatim.

Any reasonable reading of this rule requires only that (1) the subject matter of the independent claims are provided as part of the *concise explanation* and (2) this concise explanation should *refer* to the specification and drawings, where applicable. Nowhere does the rule require exact *quoting* of the claim language or any *mapping* of the claim language to the specification, and thus it is improper for the USPTO to impose such a more stringent rule upon Applicants. The originally provided summary section fully complied with this portion of the rule (there are references to both the specification and the drawings, where applicable).

Nevertheless, the newly supplied summary section also meets the literal requirements for the rule, along with the specialists *suggestions* (which are *not* part of the rule), and thus should be acceptable.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 32161.

Respectfully submitted,  
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June 9, 2008

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## **SUMMARY OF THE CLAIMED SUBJECT MATTER**

The invention provided by the subject matter found in independent claims 83, 92, and 101 relates to a data processing apparatus for processing media content comprised of a plurality of scenes, as described in the clean copy of the replacement specification. In essence, the invention provides a new way of describing media content, through the use of context description data that provides a contextual description of the media content (such as a video, for example). This description can then be used to select various scenes of the media content based on a user input, the scenes chosen based on importance related to a contextual topic as chosen by the user (see, e.g., the Summary of the Invention section of the specification).

Figure 1 (of the replacement drawings) shows a simplified view of a method performed by the apparatus, according to the invention. A simple description of this process is that, via a selection step 101, selected segments are determined according to context description data that is input into the apparatus (see the second paragraph of page 29, lines 7-15 of the clean version of the replacement specification for a description of the method shown in Figure 1). The selected segments are then used by the apparatus, as shown in Figure 5, to select desired scenes of the media content, (e.g., video) that is input into the apparatus (into a demultiplex means 601). The media content is split into audio data (input into an audio skimming means 603) and video data (input to a video skimming means 602). The selection segments are then utilized by the apparatus (e.g., the skimming means 602, 603) for use in outputting the desired audio and video data based on the degree of importance of the scenes (see the last paragraph of page 33 of the specification, to the end of the paragraph, page 33 line 17 to page 34, line 8).

The specification makes clear that “context description data” is different than the “media content” itself. On page 17 of the specification, second paragraph (lines 8-18), media content and context description data are differentiated. Media content is described as corresponding to *video data and/or audio data*, whereas context description data is described as the *configuration* of respective video data sets and/or audio data sets, and that video/audio selection means selects a scene by reference to the context description data, and that an extraction means then extracts the selected video or audio scene. Generally on pages 29-31, context description data is described in more detail, as discussed below.

An example of the context description data is shown in Figure 2 in a hierarchical format, and is described on page 29, last paragraph, to page 31 (page 29, line 24 to page 31, line 7). Figures 19, 29, 36, 65, and 68 also show additional embodiments of this data, all of which are described in the specification. In this discussion, it is made clear that the context description data is data for *describing* the media content, such as the *context* of various scenes of the media content, but it is clear that this context description data is itself *not* the media content. For example, see the last paragraph of page 30 (lines 22-25), where it is stated that the context description data can be used to *describe* a movie story hierarchically, according to the movie, chapters, sections, and paragraphs. Similarly, a video of a baseball game could be *described* by using context description data by breaking down the game into innings, half-innings, at-bats, and individual pitches, for example, to describe the game (see end of page 30, line 25 to top of page 31, line 7). Thus, it is clear from the specification that context description data is differentiated from the media content that it describes.

On page 31, the example context description data of Figure 2 is described as potentially being expressed in XML language, an example which is provided on Program03.xml of the sam-

ple programs filed on a CD ROM in this case, and described on page 31. Such an XML file can be executed in a browser application on a computer. This example of context description data further clarifies that this data is not media content, but data that is provided to describe some media content. Program03.xml is further described as being an example of context description data that has a score related to a particular context of each scene (see first paragraph on page 32, line 3 continuing on page 33 to line 4). The XML ASCII file for Program03.xml is provided in the *Evidentiary Appendix*, attached to this brief. This file can be loaded into a standard browser, such as Microsoft's Internet Explorer, where it can be executed. This data provides the start and end times of the associated scenes, and is utilized in the process described by the flow chart of Figure 4 (id.).

Figure 20 shows an input means (e.g., interface means 2401) for inputting data from database 1805 and a selection means (item 1801) operable to input context description data (see Figure 19, discussed on page 50, line 12 to page 51, line 16) for performing the selection step of Figure 17 (see page 51, line 17 to page 54, line 8), which provides support for the "input means" and "selection means" of claim 101. The context description data can include a plurality of segment elements, such as shown in Figure 19, each for describing one of said plurality of scenes of media content (see page 50, line 10 to page 51, line 16). The context description data also includes a plurality of importance attributes each associated with a corresponding one of the plurality of segment elements. This is shown by example in the priority elements of Figure 19, which are assigned a value relating to the degree of importance of the scene (id.), with these importance attributes having a value (e.g., the "score") representing a degree of contextual importance of the corresponding scenes (see, e.g. pages 31-33, as referenced above; see also first full paragraph on page 48, lines 14-19). Data of the segments related to the scenes (e.g., scene start and stop times,

see page 62, lines 3-18) are then output based on the one or more importance attributes (see pages 48-49 and see “priority” of Fig. 29, discussed on page 61, lines 7-23). In this manner, context description data can be used to determine and select scenes having a high degree of contextual importance related to a user request (e.g., see Fig. 43 and pages 86-88 of the specification for more detail about user requests).

The Evidentiary appendix also includes an example of the context description data for the above described process (in Program07.xml), along with a resulting sample output (Program07.out) showing the start/stop times for the corresponding scenes.

In particular, **Claim 83** recites a **data processing apparatus** for processing media content comprised of a plurality of scenes, with the apparatus comprising the following elements, mapped to the specification and drawings:

an input unit operable to input context description data (see, e.g., selection means discussed on page 15, last paragraph—line 20, continuing to top of page 16, line 3; See also Fig. 20, interface means 2401 connected to database 1805, and selection means 1801, discussed on the first full paragraph of page 52, line 6 to line 4 of page 53) including a plurality of segments (see, e.g., Figs 2 discussed on third paragraph of page 29, line 16 to second last paragraph of page 30, line 8) each for describing one of said plurality of scenes of media content (id.), said context description data also including a plurality of importance attributes (see e.g., “score” discussed on last two paragraphs of page 5, lines 20-24 and page 32, lines 3-7; and “priority: shown in Figures 2 and 3, discussed on last paragraph of page 29 line 24 to top of page 30, line 3 and the middle of the first paragraph on page 32 lines 10-23) each associated with a corresponding one of said plurality of seg-

ments (id.), said importance attributes having a value representing a degree of contextual importance of said corresponding one of said plurality of segments (id.); and

an output unit operable to output at least one of said segments based on at least one of said importance attributes (see, e.g., Fig. 20, demultiplex means 2402, video skimming means 2403, and audio skimming means 2404, and first paragraph of page 52, line 6, continuing to page 54, line 8, discussing Fig. 21).

Furthermore, **Claim 92** recites a **data processing method** for processing media content comprised of a plurality of scenes, with the method comprising the following steps mapped to the specification and drawings:

inputting context description data (see e.g., selection step 101 of Figure 1, discussed on page 29, lines 7-23) including a plurality of segments (see, e.g., Figs 2 discussed on third paragraph of page 29, line 16 to page 31, line 7) each for describing one of said plurality of scenes of media content (id.), said context description data also including a plurality of importance attributes (see e.g., “score” discussed on last two paragraphs of page 5, lines 20-24 and page 32, lines 3-7; and “priority: shown in Figures 2 and 3, discussed on last paragraph of page 29 line 24 to top of page 30, line 3 and the middle of the first paragraph on page 32 lines 10-23) each associated with a corresponding one of said plurality of segments (id.), said plurality of importance attributes having a value representing a degree of contextual importance of said corresponding one of said plurality of segments (id.); and

outputting at least one of said segments based on at least one of said importance attributes (id., see also Fig. 1, extraction step 102).

Additionally, **Claim 101** recites a data processing apparatus comprising the following elements, mapped to the specification and drawings:

input means for inputting (see, e.g., interface means 2401 connected to database 1805, discussed on the first full paragraph of page 52, line 6 to line 4 of page 53) hierarchically arranged context description data (see examples of Figs. 2, 3, 15, 18-19, 29, 36, and 65 and accompanying description, including page 60, line 25 to page 63, line 3) that describes a plurality of scenes of the media contents of one or more media files (id., particularly second paragraph of page 62, line 19 to top of page 63, line 3), said context description data including:

a plurality of segment elements (see, e.g., fig. 29 discussed at page 60, line 25 to page 63, line 3) each for describing one of said plurality of scenes (id.),

a plurality of section elements (see, e.g., fig. 29 discussed at page 61, line 7 to page 62, line 2) each having either one or more of said plurality of section elements as children, or having one or more of said plurality of segment elements as children (id.),

a plurality of context attributes (see “keyword” of Fig. 29, discussed on page 61, lines 7-23) each having a value for describing a corresponding context of said media content (id.) and each being an attribute associated with one or more of said segment elements (id.) and including at least one keyword for describing the contents of the scenes described by the associated one or more of said segment elements (id. plus page 62, lines 3-7),

a plurality of importance attributes (see “priority” of Fig. 29, discussed on page 61, lines 7-23) each associated with a corresponding one of said segment elements (id. plus page 62, lines 3-7) and having a value representing a degree of importance of the

scene corresponding to said corresponding segment element in relation to one context attribute that is also associated with corresponding segment element (id.) , and

    a plurality of time attributes (page 62, lines 3-18) each associated with one of said plurality of segments (id.) for determining a start time and one of an end time (id.) and a duration of said one of said plurality of segments in relation to the media content (page 62, lines 12-16);

and

    selection means (item 1801 of Fig. 20, discussed on the first full paragraph of page 52, line 6 to line 4 of page 53) for selecting one or more of said segment elements (id.) based on an analysis of one or more of said context attributes and the associated importance attributes (page 62, line 20 to page 64, line 14), wherein

    one or more of said plurality of scenes is selected based on the selected segment elements and the segment element(s)' start time attribute(s) and the end time or duration attribute(s) (id., particular page 64, lines 10-14).

In this manner, the invention as defined in the claims provides a new and useful method and apparatus for selecting, playing back, delivering a synopsis, highlighting a scene, and/or selecting a scene desired by the audience at the time of playback of the media content (see first paragraph of the Summary section of the specification).